

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KNIGHT MPIC VENTURES, LLC, et al., :
: 18 Civ. 8126 (LGS) (KNF)
: Plaintiffs, : ORDER
: ::
-against- :
: KRAIG T. HIGGINSON, :
Defendant. :
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on February 4, 2020, the Court granted Plaintiffs' motion for summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure, finding that Defendant is liable to Plaintiffs for \$3,500,000 in unpaid principal, and Plaintiffs' reasonable costs and fees, to be determined at a later date. Dkt. No. 71.

WHEREAS, on February 28, 2020, Plaintiffs filed a motion for reasonable attorneys' fees, consisting of \$385,953.45 in attorneys' fees and interest on the summary judgment award of 13%. Dkt. No. 73.

WHEREAS, Plaintiffs also requested that the Court apply the parties' pre- and post-contractual interest rates, in lieu of the federal rates, when issuing its judgment. Dkt. No. 74.

WHEREAS, Plaintiffs had not sought the parties' pre- and post-contractual interest rate in their motion for summary judgment. *See* Dkt. No 80.

WHEREAS, on August 7, 2020, the Court issued an Order that, if Plaintiffs intend to seek interest at a rate other than the federal statutory post-judgment interest, by August 14, 2020, Plaintiffs shall file a letter motion explaining the grounds for such an award and explaining why the argument was not waived when Plaintiffs failed to make it on the motion for summary judgment. Dkt. No. 80.

WHEREAS, the August 7, 2020, Order requested that Judge Fox proceed with the motion for attorneys' fees, excluding Plaintiffs' request for additional interest on the judgment.

WHEREAS, on August 12, 2020, Judge Fox issued a Report and Recommendation to grant in part Plaintiffs' motion for attorneys' fees, and award Plaintiffs \$385,953.45. Dkt. No. 81.

WHEREAS, in accordance with the August 7, 2020, Order, Judge Fox's August 12, 2020, Report and Recommendation denied Plaintiffs' motion with respect to the part of the motion requesting interest. Dkt. No. 81.

WHEREAS, the parties' deadline to object to Judge Fox's August 12, 2020, Report and Recommendation was August 26, 2020, and no objections were timely filed.

WHEREAS, in reviewing a Magistrate Judge's Report and Recommendation, a District Judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b) Advisory Committee Notes; *accord Niles v. O'Donnell*, No. 17 Civ. 1437, 2019 WL 1409443, at *1 (S.D.N.Y. Mar. 28, 2019).

WHEREAS, the Court finds no clear error on the face of the record.

WHEREAS, on August 12, 2020, Plaintiffs agreed to waive their claim for the parties' contractual interest rate and requested that the Court enter judgment for \$3,500,000 plus federal statutory interest and attorneys' fees in the amount of \$385,953.45. Dkt. No. 82. It is hereby

ORDERED that the Report and Recommendation is **ADOPTED** in its entirety as the opinion of the Court. For the reasons stated in the Report and Recommendation, Plaintiffs' motion is **GRANTED** in part and Plaintiffs are awarded \$385,953.45 in reasonable attorneys'

fees. It is further

ORDERED that judgment in the amount of \$3,500,000 plus federal statutory interest and attorneys' fees in the amount of \$385,953.45 shall be entered in favor of Plaintiffs.

The Clerk of Court is respectfully requested to enter judgment and close the case.

Dated: August 31, 2020
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE